III. REMARKS

Applicant has considered the Office Action with mailing date of Aug 15, 2007. Claims 1 – 21 are pending in this application. By this amendment, claims 1, 8 and 15 have been amended Applicant is not conceding in this application that those claims are not patentable over the art cited by the Office. The present claim amendments are only for facilitating expeditious prosecution. Applicant do not acquiesce in the correctness of the rejections and reserve the right to present specific arguments regarding any rejected claims not specifically addressed. Further, Applicant respectfully reserves the right to pursue the full scope of the subject matter of these original claims and other claims in one or more subsequent patent application that claim(s) priority to the instant application.

In the Office Action, claims 8, 10 – 14 are rejected under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter. Claims 1 – 8, 10 – 21 are rejected under 35 U.S.C. §103(a) as allegedly being unpatentable over "Java and Websphere Performance", IBM Redbooks, February 2002, section Performance Explorer PEX, hereinafter "PEX-Feb 02" in view of "Collecting and Analyzing PEX Trace Profile Data", IBM Rochester Lab, September 2002, hereinafter "PEX-Sep02" and further in view of U.S. Patent Publication No. 2003/0236992 A1, hereinafter "Yami". Reconsideration in view of the following remarks is respectfully requested.

A. REJECTION OF CLAMS 8, 10 – 14 UNDER 35 U.S.C. §101

With regard to the Office's rejection of claims 8, 10 – 14 under 35 U.S.C. §101 as allegedly being directed to non-statutory subject matter, Applicant submits that currently amended independent claim 8 is recites, *inter alia*, "A computer implemented system, *embodied in a computer readable and executable medium*, for analyzing messages …". Applicant

believes that the current amendment places the claim in a language that includes hardware for which the process steps of the system in implemented. As such, Applicant submits that the claimed invention satisfies the Office's interpretation of statutory subject matter. Accordingly, Applicant respectfully requests that the Office withdraw the rejection. Consequently, Applicant also respectfully request the Office's withdrawal of the rejection to dependent claims 10 – 14.

B. REJECTION OF CLAIMS 1 – 21 UNDER 35 U.S.C. §103(a)

With regard to the 35 U.S.C. §103(a) rejection of claims 1– 8, 10 – 21 as allegedly being unpatentable over PEX-Feb02 in view of PEX-Sep02 and Yami, Applicant submits that the cited references do not teach each and every feature of the claimed invention. For example, PEX-Feb02 does not teach or suggest the "providing message analysis criteria for *analyzing messages for an end user* of a computer program, … wherein the message analysis criteria determines *lingual metrics* corresponding to the messages for *translations estimates*". Claim 1. Support for this amendment is found in ¶[0002] and ¶[0005] of the originally filed specification of the application. Specifically, PEX-Feb02 does not teach or suggest a message analysis criteria for ascertaining the prosody of the messages that are analyzed for facilitating lingual translations of the messages. In contrast to the claimed invention, PEX-Feb02 discloses "…server performance [including] such topics as performance measurement and its analysis, performance characteristics of WebSphere Application Server-based applications, capacity planning, and how to do sizing on WebSphere Application Server-based applications." PEX-Feb02 at page 3, § 1.3. *Server performance*, in particular, *performance of* WebSphere Application *Server* does not involve message analysis for *ascertaining the prosody* in messages for *translations estimates*. To this extent, a person of ordinary skill seeking a method for *analyzing* the *lingual metrics of messages* will not look to a tuning method for the

performance of WebSphere Application *Server environments* because the methodology in *__tuning__*

the performance of *__a server environment__* cannot be applied to *__analyzing__* of the *__construct of a__*

__message__. As such, the Office has not established *prima facie* obviousness. Accordingly, Applicant

respectfully requests the withdrawal of the rejection.

As opposed to the Office's assertion on page 2 of the current Office Action that PEX-Feb02

at page 42: 18 – 24, teaches or suggests the claimed feature, Applicant submits that

gathering/analyzing *performance data* in PEX-Feb02 is not equivalent to analyzing *messages*.

Specifically, the claimed message(s) is information constructed in lingual prosody. Even though

gathering/analyzing performance data allows application developers to understand and improve the

performance of their programs, PEX-Feb02's performance data is information collected on hardware

resources, system tuning, application architecture and design, PEX-Feb02 at page 4. To this extent,

there is no nexus between the PEX-Feb02 performance data and the claimed message(s). As such, a

person would not find any motivation to look to PEX-Feb02 because PEX-Feb02 does not teach, a

"message [constructed on the basis of] *lingual metrics* … for translations estimates". Claim 1. With

no motivation to refer to PEX-Feb02 by a person of ordinary skill, PEX-Feb02 is not *prima facie*

obvious. Accordingly, Applicant respectfully requests that the rejection be withdrawn.

On page 2 of the current Office Action, the Office asserts that PEX-Feb02 at page 41: 24 –

26, page 44: 11 – 13, 44: 25 – 29 teaches or suggests the claimed feature of "providing message

analysis criteria…". Claim 1. The cited sections in PEX-Feb02 are reiterated below.

> "To *define the mode* as well as the details of your data collection, you follow
> these steps:
>
> Create a PEX definition. The PEX definition is stored as a database
> member QAPEXDFN in library QUSRSYS."

PEX-Feb02 at page 41: 24 – 26.

> "4. Create a PEX definition using a definition provided with PTDV.
> 5. Start the PEX collection.
> 6. Run a small number of your application transactions, if possible, just one."

PEX-Feb02 at page 44: 11 – 13.

> "You can display the status of your Java programs by using the Display Java
> Program (DSPJAVPGM) command:
>
> 1. At an OS/400 command line, type the following command (case sensitive):

```
DSPJAVPGM CLSF ('/QIBM/UserData/WebASAdv/<Your Instance>/OrderEntryBeans.jar')
```

> Here *OrderEntryBeans.jar* is a jar file that contains an application. The
> information about the jar appears as shown in Figure 3 – 25."

PEX-Feb02 at page 44: 25 – 29.

However, nowhere in these sections is taught or suggested a message, least of all "providing a

message analysis criteria". Claim 1. It appears that the Office has taken Official Notice in applying

these sections in support of the rejection. However, The Office has not provided any evidence or

rationale as to how the cited sections in PEX-Feb02 teach or suggest the claimed feature of providing

a message analysis criteria. Without any of factual support for the Official Notice, Applicant

respectfully requests that the Office withdraw this rejection.

In view of the foregoing arguments, Applicant respectfully request that the Office

withdraw the rejection and allow the independent claim 1. Applicant submits that the same

amendments have been made in independent claims 8 and 15. Consequently, Applicant reiterates

the foregoing arguments with respect to currently amendment claims 8 and 15 and respectfully

requests that the Office withdraw the rejection.

With respect PEX-Sep02 and Yami, Applicant respectfully submits that these references

do not cure PEX-Feb02's deficiencies set out in the foregoing paragraphs. Since there is no nexus between the subject matter disclosed these references and a method for analyzing messages, a person of ordinary skill will not turn to any of the references. Accordingly, Applicant respectfully requests that the Office withdraw the rejection.

Turning to the Office's other arguments regarding dependent claims, Applicant incorporates the above arguments. In addition, Applicant submits that all dependant claims are allowable based on their own distinct features. However, for brevity, Applicant will forego addressing each of these rejections individually, but reserves the right to do so should it become necessary. Accordingly, Applicant respectfully requests that the Office withdraw its rejection.

IV. CONCLUSION

In addition to the above arguments, Applicant submits that each of the pending claims is patentable for one or more additional unique features. To this extent, Applicant does not acquiesce to the Office's interpretation of the claimed subject matter or the references used in rejecting the claimed subject matter. Additionally, Applicant does not acquiesce to the Office's combinations and modifications of the various references or the motives cited for such combinations and modifications. These features and the appropriateness of the Office's combinations and modifications have not been separately addressed herein for brevity. However, Applicant reserve the right to present such arguments in a later response should one be necessary.

In light of the above, Applicant respectfully submit that all claims are in condition for allowance. Should the Examiner require anything further to place the application in better condition for allowance, the Examiner is invited to contact Applicant' undersigned representative at the number listed below.

Respectfully submitted,

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